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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,812	11/24/2003	Jef W. Knutson	020366-092700US	6243
20350 7590 05/29/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
FRANCIS, MARK P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/721,812

**Applicant(s)**

KNUTSON ET AL.

**Examiner**

MARK P. FRANCIS

**Art Unit**

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 24, 2003 has been entered.
2. Claims 1-22 have been examined.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-3 and 5-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 5, Applicant has incorporated the newly added limitation of "using an already selected development process or methodology" to each of the

independent claims. Applicant's specification does not provide proper support for claiming this limitation. Therefore claims 1 and 5 are rejected under 35 U.S.C. 112 1st for incorporating new matter.

Regarding claim 22, Applicant has incorporated the newly added limitation of "using an Extreme Programming process that has been selected for the project" to the independent claim. Applicant's specification does not provide proper support for claiming this limitation. Applicant only mentions in the background of the invention the use of Extreme Programming in which a complete project requirements document is eliminated in favor of a more dynamic process and common problems associated with the use of Extreme Programming. Applicant has failed to define or disclose inside the specification, using an Extreme Programming process that has been selected for the project from any sort of selection process. Therefore claim 22 is rejected under 35 U.S.C. 112 1st for incorporating new matter.

The rejection of the independent claims are incorporated into their dependent claims

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 22 is rejected under 35 U.S.C. 102(e) as being anticipated by Barrett (U.S. PG PUB 2005/0039163.

With respect to claim 22, Barrett discloses a method for a user managing a development project using an Extreme Programming (XP) process(Col 1:0014, "...for managing a project,...") having a planned number of project components to be completed,(Col 1:0012, "...illustrating one or more project items of the project...") wherein the project is divided into a series of development periods,(Col 2:0031, "...A project may be broken down into several project phases...") with each project component assigned to one of the development periods, (Col 2:0032, "...A task is generally a specific function to be performed...") wherein for each development period there is a planned amount of work and a planned amount of resources,(Col 2:0032-0033, "...For example, the planning phase may have tasks such as to create a Product Requirements...") so that for each development period there is a total of work and a total of resources associated with project components within that development period,(Col 4:0052, "...a task is generally a specific function to be performed in the furtherance of the project...") and wherein the development project involves both the development of project components as well as the testing of project components,(Col 2:0031, "...may have a planning phase, an implementation phase...") the method comprising: providing a graphical user interface (GUI);(Col 2:0036-0037, "...The client may view the published web pages using a web browser...")

Displaying to the user at the GUI a graph illustrating for at least one development period (Col 6:0073-0076, "...the Gantt chart shows a project, there may be a set of bars for each phase of the project...") both the total work and the total resources for the development of project components during that development period; (Col 4:0053-0054, "...Task progress may be viewed in terms of when the effort actually occurs...", Col 4:0056, "...Tasks may be assigned to a resource...") and adjusting by the user of either the planned work or the planned resources or both, so that the impact of the adjustment can be observed the first graph displayed at the GUI. (Col 4:0056, "...information pertaining to a resource can be entered into the database by using client to access...", Col 6:0076, "...a Gantt illustrating tasks may be drilled-down to display a Gantt illustrating the resources assigned to the task...")

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-16 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (U.S. PGPUB 2005/0039163) in view of Kaufer. (U.S. Pat 6,519,763)

Independent claims

Regarding claims 1,4 and 5, Barrett discloses a method for a user managing a development project having a planned number of project components to be completed, wherein the project is divided into a series of development periods, (Col 2:0031, "...A project may be broken down into several project phases...") with each project component assigned to one of the development periods, (Col 2:0032, "...A task is generally a specific function to be performed...") wherein for each development period there is a planned amount of work and a planned amount of resources, (Col 2:0032-0033, "...For example, the planning phase may have tasks such as to create a Product Requirements...") and wherein the development project involves both the development of project components as well as the testing of project components, (Col 2:0031, "...may have a planning phase, an implementation phase...") the method comprising:

Providing a graphical user interface (GUI); (Col 2:0036-0037, "...The client may view the published web pages using a web browser...")

Displaying to the user at the GUI a first graph illustrating for at least one development period(Col 6:0073-0076, "...the Gantt chart shows a project, there may be a set of bars for each phase of the project...") both the total work and the total resources for the development of project components during that development period; (Col 4:0053-0054, "...Task progress may be viewed in terms of when the effort actually occurs...", Col 4:0056, "...Tasks may be assigned to a resource...")

Adjusting by the user of at least one of the planned work and the planned resources so that the impact of the adjustment can be observed at least at one of the first and second graphs displayed at the GUI. (Col 4:0056, "...information pertaining to a resource can be entered into the database by using client to access...", Col 6:0076, "...a Gantt illustrating tasks may be drilled-down to display a Gantt illustrating the resources assigned to the task...")

but does not disclose displaying simultaneously to the user at the Gui a second graph illustrating for at least one development period both the total work and the total resources for the testing of developed project components during that development period.

Kaufer discloses and a second window means for displaying a graph illustrating both the total work and the total resources for the testing of project components(Col 13:45-67, "...resource schedule history, task history and completion dates...", See also Fig. 3 and related text) during at least one development period(Col 9:40-60, "...unit testing assists in conveying how many tests were created per unit time spent testing....", Col 14:15-35, "...This information is then used in the schedule prediction and trend graphs...", See also Fig. 3 and related text) in an analogous system for the purpose of providing an accurate prediction of anticipated project completion along with the total work and resources needed.



Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include a graph displaying the total amount of work and resources consumed during testing of the project components during a development period.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide an accurate prediction of anticipated project completion along with the total work and resources needed.

#### **Dependent claims**

With respect to claims 2 and 6, the rejection of claims 1 and 5 are incorporated respectively and further, Kaufer discloses that the development project is a software development project. (Col 9:40-55, "...Design/Coding, unit testing, bug fixing...")

With respect to claim 3, the rejection of claim 2 is incorporated and further, Kaufer discloses further comprising: a third window for displaying data underlying the graphs displayed in the first and second windows, wherein the underlying data in the third window may be displayed for modification, so that as the underlying data is modified, corresponding modifications are made to the graphs in the first and second displays. (Col 9:40-60, "...unit testing assists in conveying how many tests were created per unit time spent testing....", Col 14:15-35, "...This information is then used in the schedule prediction and trend graphs...")

With respect to claim 7, the rejection of claim 6 is incorporated and further, Barrett discloses that the development project comprises an extreme programming (XP) process (Col 1:0014, "...for managing a project,...") and wherein the project components are defined by user stories. (Col 4:0049, "...The project description may be a brief explanation of the purpose of the project...")

With respect to claim 8, the rejection of claim 5 is incorporated and further, Barrett discloses that a plurality of graphs representing a plurality of development periods are displayed on the GUI. (Col 2:0036-0037, "...The client may view the published web pages using a web browser...")

With respect to claim 9, the rejection of claim 5 is incorporated and further, Barrett discloses that the planned amount of work and the planned amount of resources are each expressed in hours. (Col 7:0081, "...the total hours spent on the stage...")

With respect to claim 10, the rejection of claim 5 is incorporated and further, Barrett discloses that the step of adjusting planned work is accomplished by changing the number of project components within the one development period. (Col 7:0085, "...this report will allow a user to select a period of time and the report can show the status...")

With respect to claim 11, the rejection of claim 5 is incorporated and further, Barrett

discloses that a plurality of developers are assigned to the project, wherein each developer has a planned level of effort for the development project, and wherein the step of adjusting is accomplished by changing the level of effort. (Col 4:0056, "...information pertaining to a resource can be entered into the database by using client to access...", Col 6:0076, "...a Gantt illustrating tasks may be drilled-down to display a Gantt illustrating the resources assigned to the task...", Col 7:0085, "...this report will allow a user to select a period of time and the report can show the status...")

With respect to claim 12, the rejection of claim 5 is incorporated and further, Barrett discloses that each developer has a total number of hours available for the development project for the one development period, and wherein the level of effort is expressed as a percentage of those available hours. (Col 7:0081-0082, "...the total hours remaining to be spent...")

With respect to claim 13, the rejection of claim 5 is incorporated and further, Kaufer discloses further comprising simultaneously displaying on the GUI underlying data associated with each project component, (e.g. See Fig. 3 and related text) Barrett discloses the underlying data including impact data representing an indication of whether or not the completion of the project component is mandatory. (Barrett: Col 5:0061-0062, "...must fall before it may be considered in a warning status...")

With respect to claim 14, the rejection of claim 13 is incorporated and further, Barrett

discloses that project components consist of components specified by a user and project components specified by a developer, and wherein the mandatory project component is one specified by a developer. (Col 2:0032, "...A task is generally a specific function to be performed...")

With respect to claim 15, the rejection of claim 5 is incorporated and further, Kaufer discloses further comprising displaying simultaneously on the GUI underlying data associated with each project component, (e.g. See Fig. 3 and related text) and wherein the GUI has a first display area for displaying the first graph, (e.g. See Fig. 3 and related text) a second display area for displaying the second graph, (e.g. See Fig. 3 and related text) Barrett discloses and a third display area for displaying the underlying data. (Barrett:Col 4:0056, "...information pertaining to a resource can be entered into the database by using client to access...", Col 6:0076, "...a Gantt illustrating tasks may be drilled-down to display a Gantt illustrating the resources assigned to the task...")

With respect to claim 16, the rejection of claim 15 is incorporated and further, Barrett discloses that the step of adjusting is performed using the third display area. (Col 4:0056, "...information pertaining to a resource can be entered into the database by using client to access...", Col 6:0076, "...a Gantt illustrating tasks may be drilled-down to display a Gantt illustrating the resources assigned to the task...")

With respect to claim 20, the rejection of claim 5 is incorporated and further, Barrett discloses comprising, as part of the steps of displaying first and second graphs, illustrating the difference between the total work and the total resources. (Col 4:0053-0054, "...Task progress may be viewed in terms of when the effort actually occurs...", Col 4:0056, "...Tasks may be assigned to a resource...", Col 6:0073-0076, "...the Gantt chart shows a project, there may be a set of bars for each phase of the project...")

With respect to claim 21, the rejection of claim 5 is incorporated and further, Barrett discloses that the first and second graphs comprise multiple bar graphs, with one of the multiple bar graphs representing total work and another of the bar graphs representing total resources. (Col 6:0073-0076, "...the Gantt chart shows a project, there may be a set of bars for each phase of the project..." ,Col 4:0053-0054, "...Task progress may be viewed in terms of when the effort actually occurs...", Col 4:0056, "...Tasks may be assigned to a resource...")

9. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (U.S. PGPUB 2005/0039163) in view of Kaufer (U.S. Pat 6,519,763) and further in view of Kolawa. (U.S. PGPUB 2005/0015675)

With respect to claim 17, the rejection of claim 5 is incorporated and further,

Neither Barrett nor Kaufer disclose that the project components are software, and wherein the testing of the project components comprises acceptance testing for each individual project component, and wherein the total work for testing illustrated at the second graph is the total work associated with acceptance testing.

Kolawa discloses that the project components are software, (Col 4:0046-0051, "... (regression testing)...the testing tools...are integrated with the check-in procedures for source control..." ) and wherein the testing of the project components comprises acceptance testing for each individual project component, and wherein the total work for testing illustrated at the second graph is the total work associated with acceptance testing (Col 6:0069-0071, "...it is shown in graphic form..." )  
in an analogous system for the purpose of preventing errors throughout the full computer software lifecycle. (Kolawa: Col 2:0022)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include acceptance test for each individual project component.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to prevent errors during acceptance testing throughout the computer software lifecycle. (Kolawa: Col 2:0022)

With respect to claim 18, the rejection of claim 17 is incorporated and further,

Kolawa discloses that the testing further comprises regression testing, (Col 1:0006, "...regression testing...") and wherein the method further comprises displaying, as part of the second graph, the total work associated with regression testing for the one development period, (Col 4:0046-0051, "...Problems found by the tool are fed back to the developers...") the regression testing illustrated separately from the acceptance testing (Col 5:0064-0066, "...such as a bug tracking system...data from testing and monitoring tools...", See Fig. 4c and related text) in an analogous system for the purpose of preventing errors throughout the full computer software lifecycle.(Kolawa:Col 2:0022)

With respect to claim 19, the rejection of claim 17 is incorporated and further,

Kolawa discloses that wherein the regression testing comprises testing a completed project component multiple times,(Col 4:0051-0054, "...Problems found by the tool are fed back to the development stage...") including once after each of multiple subsequent project components are completed (Col 4:0051-0054, "...the tool can be run with or without the check-in thresholds pre-configured...") in an analogous system for the purpose of preventing errors throughout the full computer software lifecycle.(Kolawa:Col 2:0022)

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK P. FRANCIS whose telephone number is (571)272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on (571)272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic



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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark P. Francis

Patent Examiner

Art Unit 2193

/Lewis A. Bullock, Jr./  
Supervisory Patent Examiner, Art Unit 2193